

AP/2143
11/11/04

**COMBINED NOTICE OF APPEAL FROM THE PRIMARY EXAMINER TO THE
BOARD OF PATENT APPEALS AND INTERFERENCES & PETITION FOR
EXTENSION OF TIME UNDER 37 C.F.R. 1.136(a) (Large Entity)**

Docket No.
YOR9-2000-0316

In Re Application Of: **Bantz et al.**

AUG 23 2004
PATENT & TRADEMARK OFFICE

Serial No.
09/626,430

Filing Date
July 27, 2000

Examiner
Lezak, Arrienne M.

Group Art Unit
2143

Invention: **Service Provisioning Via Attribute-Based Subscription**

TO THE COMMISSIONER FOR PATENTS:

This is a combined Notice of Appeal from the Primary Examiner to the Board of Patent Appeals and Interferences and petition under the provisions of 37 CFR 1.136(a) to extend the period for filing a response to the Office Action of **March 24, 2004** in the above-identified application.

Date

Applicant(s) hereby appeal(s) to the Board of Patent Appeals and Interferences from the decision of the Primary Examiner dated **March 24, 2004** finally rejecting Claim(s)

Applicant(s) hereby request(s) an extension of time of (check desired time period):

☐ One month ☒ Two months ☐ Three months ☐ Four months ☐ Five months

from: **June 24, 2004** until: **August 24, 2004**
Date *Date*

The fee for the Notice of Appeal and Extension of Time has been calculated as shown below:

Fee for Notice of Appeal: **\$330.00**

Fee for Extension of Time: **\$420.00**

TOTAL FEE FOR NOTICE OF APPEAL AND EXTENSION OF TIME: **\$750.00**

The fee for the Notice of Appeal and extension of time is to be paid as follows:

☐ A check in the amount of _____ for the Notice of Appeal and extension of time is enclosed.

☒ Please charge Deposit Account No. **50-0510** in the amount of **\$750.00**

☒ The Director is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. **50-0510**

☒ Any additional filing fees required under 37 C.F.R. 1.16.

☐ Any patent application processing fees under 37 CFR 1.17.

☒ If an additional extension of time is required, please consider this a petition therefor and charge any additional fees which may be required to Deposit Account No. **50-0510**

08/24/2004 AWONDAF1 00000082 500510 09626430

01 FD:1401 330.00 DA
02 FD:1252 420.00 DA

**COMBINED NOTICE OF APPEAL FROM THE PRIMARY EXAMINER TO THE
BOARD OF PATENT APPEALS AND INTERFERENCES & PETITION FOR
EXTENSION OF TIME UNDER 37 C.F.R. 1.136(a) (Large Entity)**

Docket No.
909A.0017.USU

In Re Application Of: Bantz et al.

AUG 23 2004

Serial No.
09/626,430

Filing Date
July 27, 2000


Examiner
Lezak, Arrienne M.

Group Art Unit
2143

Invention: Service Provisioning Via Attribute-Based Subscription

TO THE COMMISSIONER FOR PATENTS:

This combined Notice of Appeal from the Primary Examiner to the Board of Patent Appeals and Interferences and petition for extension of time under 37 CFR 1.136(a) is respectfully submitted by the undersigned:


Signature

Dated: August 19, 2004

Customer No. 29683
Gerald J. Stanton (Reg. No. 46,008)
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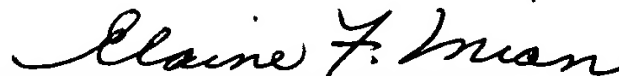
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IN THE U.S. PATENT AND TRADEMARK OFFICE

Appl. No. : 09/626,430
Applicant : Bantz et al.
Filed : July 27, 2000
TC/AU : 2143
Examiner : Lezak, Arrienne M.



Docket No. : YOR9-2000-0316
Customer No. : 29683
Title : SERVICE PROVISIONING VIA ATTRIBUTE-BASED SUBSCRIPTION

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NOTICE OF APPEAL

The Applicant hereby files notice that it appeals to the Board of Patent Appeals and Interferences, in accordance with 35 U.S.C. § 134(a) and 37 C.F.R. § 1.191(a), the decision of the Examiner as recited in a final Office Action dated March 24th, 2004.

Claims: A listing of claims 1-40, which are all claims as finally rejected and subject to this appeal, is presented on pages 2-9 of this paper in accordance with M.P.E.P. § 1205. No claim amendments have been submitted or entered since that final rejection.

Attachments: A completed form PTO/SB/31 Notice Of Appeal is attached hereto.

Please charge Deposit Account No. 50-0510 in the amount of \$750, which includes the fee (\$330) for Notice of Appeal under 37 C.F.R. § 1.17(b) and the fee (\$420) for a two-month extension of time under 37 C.F.R. § 1.17(a)(2). The Applicant hereby petitions for that two-month extension of time to respond to the final Office Action. Should the undersigned representative be mistaken, please consider this as a petition for an extension of time necessary to effect his Notice and charge Deposit Account No. 50-0510 for any required fee deficiency.

Listing of Claims:

1. (Previously Amended) A method for service provisioning a customer with at least one software application from a service provider, comprising steps of:

establishing a set of attributes of a service provision;

selecting from said set of attributes for defining a Service Level Agreement (SLA) with the service provider; and

provisioning at least one client computer of the customer in accordance with constraints imposed by the SLA.

2. (Original) A method as in claim 1, and further comprising a step of re-provisioning the customer in response to a change in the SLA.

3. (Original) A method as in claim 1, and further comprising a step of re-provisioning the customer, within the constraints imposed by the SLA, in response to at least one customer service-related criterion.

4. (Original) A method as in claim 1, and further comprising a step of re-provisioning the customer, within the constraints imposed by the SLA, in response to at least one service provider criterion.

5. (Original) A method as in claim 1, wherein the step of provisioning the customer includes a step of allocating service provider data processing resources to a data processing task of the customer.

6. (Original) A method as in claim 1, wherein the step of provisioning the customer includes a step of allocating customer data processing resources to a data processing task of the customer.

7. (Original) A method as in claim 1, wherein the step of provisioning the customer includes a step of allocating data processing resources of another service provider to a data processing task of the customer.

8. (Original) A method as in claim 1, wherein the step of provisioning the customer includes a step of allocating all required data processing resources from at least one other service provider to a data processing task of the customer.

9. (Original) A method as in claim 1, wherein the step of provisioning the customer includes a step of allocating all required data processing resources from at least one other service provider, and from the customer, to a data processing task of the customer.

10. (Original) A method as in claim 1, and further comprising a step of re-provisioning the customer, within the constraints imposed by the SLA, by allocating at least some required data processing resources from at least one other service provider to a data processing task of the customer.

11. (Original) A method as in claim 1, and further comprising a step of re-provisioning the customer, within the constraints imposed by the SLA, by allocating at least some required data processing resources from the service provider to a data processing task of the customer.

12. (Original) A method as in claim 1, and further comprising a step of re-provisioning the customer, within the constraints imposed by the SLA, by allocating at least some required data processing resources from the customer to a data processing task of the customer.

13. (Original) A method as in claim 1, wherein said attributes comprise a cost attribute.

14. (Original) A method as in claim 1, wherein said attributes comprise an interactivity attribute.

15. (Original) A method as in claim 1, wherein said attributes comprise an availability attribute.

16. (Original) A method as in claim 1, wherein said SLA is comprised of at least one of a cost attribute, an interactivity attribute, and an availability attribute.

17. (Original) A method as in claim 1, wherein the service provider is a virtual service provider, and wherein the step of provisioning the customer, within the constraints imposed by the SLA, includes a step of allocating at least some required data processing resources from at least one other service provider to a data processing task of the customer.

18. (Original) A method as in claim 1, wherein the service provider is a value-added services provider, and wherein the step of provisioning the customer, within the constraints imposed by the SLA, includes a step of allocating at least some required data processing resources from at least one other service provider to a data processing task of the customer.

19. (Original) A method as in claim 1, wherein the service provider is a value-added services provider, and wherein the step of provisioning the customer, within the constraints imposed by the SLA, includes a step of allocating at least some required data processing resources from data processing resources of the value-added services provider, and from at least one other service provider, to a data processing task of the customer.

20. (Original) A method as in claim 1, wherein the service provider is a value-added services provider, and wherein the step of provisioning the customer, within the constraints imposed by the SLA, includes a step of allocating at least some required data processing resources from data processing resources of the value-added services provider, from at least one other service provider, and from the customer, to a data processing task of the customer, and further comprising a step of re-provisioning the customer, within the constraints imposed by the SLA, by changing the allocation of at least some of the allocated data processing resources.

21. (Original) A method as in claim 1, and further comprising a step of re-provisioning the customer, within the constraints imposed by the SLA, in response to a change in data processing resource utilization.

22. (Original) A method as in claim 1, and further comprising a step of re-provisioning the customer, within the constraints imposed by the SLA, in response to a change in predicted or actual data processing resource availability.

23. (Original) A method as in claim 1, and further comprising a step of re-provisioning the customer, within the constraints imposed by the SLA, in response to a failure of a data processing resource.

24. (Original) A method as in claim 1, wherein the service provider is a virtual service provider, and wherein the step of provisioning the customer, within the constraints imposed by the SLA, includes a step of allocating at least some required data processing resources from at least one data processing site that offers data processing capacity for use in satisfying data processing requirements of the customer.

25. (Previously Amended) A method for service provisioning a customer with at least one software application from a service provider, comprising steps of:

establishing a set of attributes of a service provision;

selecting from said set of attributes for defining a Service Level Agreement (SLA) with the service provider;

provisioning the customer, within the constraints imposed by the SLA, by allocating at least some required data processing resources to at least one data processing site that offers data processing capacity for use; and

transparently re-provisioning the customer, within the constraints imposed by the SLA, by re-allocating at least some required data processing resources from the at least one data processing site that offers data processing capacity for use to one of the customer, the service provider, or another service provider.

26. (Previously Amended) A method for service provisioning a customer with at least one software application from a service provider, comprising steps of:

establishing a set of attributes of a service provision;

selecting from said set of attributes for defining a Service Level Agreement (SLA) with the service provider;

provisioning the customer, within the constraints imposed by the SLA, by allocating at least some required data processing resources to at least one other service provider that offers data processing capacity for use; and

transparently re-provisioning the customer, within the constraints imposed by the SLA, by re-allocating at least some required data processing resources from the at least other service provider that offers data processing capacity for use to one of the customer, the service provider, or a data processing site that offers data processing capacity for use.

27. (Previously Amended) A data processing system for service provisioning a customer with at least one software application from a service provider, said service provider and said customer being coupled together through a communication network, said system comprising:

a system management server for establishing a set of attributes of a service provision; and

a customer interface for selecting from said set of attributes for defining a Service Level Agreement (SLA) with the service provider, said system management server being responsive to said SLA for provisioning at least one client computer of the customer in accordance with constraints imposed by the SLA.

28. (Original) A system as in claim 27, wherein said system management server is responsive to at least one of a customer service-related criterion, a service provider criterion, or a change in a data processing environment, for re-provisioning the customer, within constraints imposed by said SLA, by allocating service provider data processing resources to a data processing task of the customer, or by allocating customer data processing resources to a data processing task of the customer, or by allocating data processing resources of another service provider to a data processing task of the customer, or by allocating all required data processing resources from at least one other service provider to a data processing task of the customer, or by allocating data processing resources from a remote data processing site to a data processing task of the customer.

29. (Original) A system as in claim 27, wherein said attributes comprise at least one of a cost attribute, an interactivity attribute, and an availability attribute.

30. (Original) A system as in claim 27, wherein the service provider is a virtual service provider, and wherein the customer is provisioned and re-provisioned, within the constraints imposed by the SLA, by allocating at least some required data processing resources from at least one other service provider to a data processing task of the customer.

31. (Original) A system as in claim 27, wherein the service provider is a value-added services provider, and wherein the customer is provisioned and re-provisioned, within the constraints imposed by the SLA, by allocating at least some required data processing resources from at least one other service provider to a data processing task of the customer.

32. (Original) A system as in claim 27, wherein the service provider is a value-added services provider, and wherein the customer is provisioned and re-provisioned, within the constraints imposed by the SLA, by allocating at least some required data processing resources from data processing resources of the value-added services provider, and from at least one other service provider, to a data processing task of the customer.

33. (Original) A system as in claim 27, wherein the service provider is a value-added services provider, and wherein the customer is provisioned and re-provisioned, within the constraints imposed by the SLA, by allocating at least some required data processing resources

from data processing resources of the value-added services provider, from at least one other service provider, and from the customer, to a data processing task of the customer, and further re-provisioning the customer, within the constraints imposed by the SLA, by changing the allocation of at least some of the allocated data processing resources.

34. (Original) A system as in claim 27, wherein the customer is re-provisioned, within the constraints imposed by the SLA, in response to a change in at least one of data processing resource utilization, a change in predicted or actual data processing resource availability, or a failure of a data processing resource.

35. (Previously Amended) A computer program embodied on at least one computer readable medium for service provisioning a customer with at least one software application from a service provider, said program comprising:

first executable code for establishing a set of attributes of a service provision;

second executable code, responsive to a user input, for selecting from said set of attributes for defining a Service Level Agreement (SLA) with the service provider;

third executable code for provisioning the customer, within the constraints imposed by the SLA, by allocating at least some required data processing resources to at least one of the service provider, the customer, to another service provider, or to a data processing site that offers data processing capacity for use; and

fourth executable code for transparently re-provisioning the customer, within the constraints imposed by the SLA, by re-allocating at least some required data processing resources between at least one of the service provider, the customer, the another service provider, or the data processing site that offers data processing capacity for use.

36. (Original) A system for service provisioning a customer with a software service, comprising:

a plurality of data processing sites coupled to a communication network, individual ones of said sites comprising program code for registering available data processing capability using said communication network; and

a virtual service provider coupled to the customer through the communication network, said virtual service provider comprising a system management server for establishing a set of attributes of a customer service provision, and for allocating data processing capability for provisioning the customer from the data processing capability registered by said plurality of data processing sites.

37. (Original) A system as in claim 36, wherein said virtual service provider further comprises a customer interface for enabling the customer to select from said set of attributes for defining a Service Level Agreement (SLA) with the service provider, said system management server being responsive to said SLA for provisioning the customer in accordance with constraints imposed by the SLA.

38. (Original) A system as in claim 36, wherein at least some of said plurality of data processing sites comprise personal computers.


39. (Original) A system as in claim 36, wherein said individual ones of said data processing sites comprising said program code for registering available data processing capability register said available data processing capability with an e-marketplace that is accessible by said virtual service provider using said communication network.

40. (Original) A system as in claim 36, wherein said individual ones of said data processing sites comprising said program code for registering available data processing capability register said available data processing capability, and a desired rate for using said available data processing capability, with an e-marketplace accessible by said virtual service provider using said communication network.

Appl. No. 09/626,430
Notice of Appeal dated August 19, 2004
Reply to final Office Action dated March 24, 2004



Respectfully submitted:


Gerald J. Stanton
Reg. No.: 46,008

August 19, 2004
Date

Harrington & Smith, LLP

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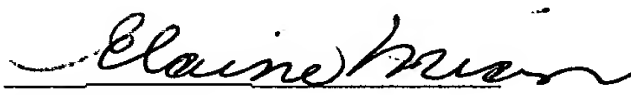
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August 19, 2004
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Elaine Mian